

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA DEPARTMENT OF
TRANSPORTATION,

Plaintiff,

v.

VTs TRANSPORTATION, INC.
AND GREAT WEST CASUALTY
COMPANY,

Defendants.

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CIVIL ACTION
FILE NO. 1:22cv2414

State Court of DeKalb County
Case No. 22A01450

PLAINTIFF’S MOTION TO REMAND

COMES NOW, Plaintiff, the Georgia Department of Transportation (“GDOT” or “the Department”), by and through counsel, Christopher M. Carr, Attorney General for the State of Georgia, pursuant to 28 U.S.C. § 1447(c), and moves that this matter be remanded to the State Court of DeKalb County as this Court lacks subject matter jurisdiction over this action. In support of its Motion to Remand, the Department relies on the pleadings on file.

The Department submits that this case must be remanded to the State Court of DeKalb County for two reasons, which the Court has previously addressed with respect to the Department. First, the Department is an agency of the State

of Georgia and is entitled to Eleventh Amendment immunity in this Court. *Ga. DOT v. MCC Telephony of Ga.*, No. 1:07-CV-2530-CAP, 2008 U.S. Dist. LEXIS 139265 (N.D. Ga. Jan. 14, 2008). Therefore, an action involving the Department cannot proceed in this Court without the consent of the Department. Second, the Department is not a citizen for purposes of 28 U.S.C. § 1332(a), so there is no diversity jurisdiction of citizenship to confer jurisdiction in federal court. *Id.*

Therefore, this Court lacks subject matter jurisdiction over this matter and this action should be remanded to the State Court of DeKalb County.

This 23rd day of June 2022.

Respectfully submitted,

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<u>/s/ Nathan D. Hovey</u>	
NATHAN D. HOVEY	329132
Assistant Attorney General	

**PLEASE ADDRESS ALL
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CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2022, I electronically filed this MOTION TO REMAND with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record, and have mailed the document by United States Postal Service to:

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This 23rd day of June, 2022.

/s/ Nathan D. Hovey
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